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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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David R. Kline

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12/13/2005

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EXAMINER

BROWN, VERNAL U

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/016,315	Applicant(s) KLINE, DAVID R.	
	Examiner Vernal U. Brown	Art Unit 2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10-21,23-36 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,2-4,4-8,10-21,23-36,38-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to communication filed on September 22, 2005.

Response to Amendment

The examiner acknowledges the amendment of claims 1, 7, 20, 30, and 34.

Response to Arguments

Applicant's arguments filed September 22, 2005 have been fully considered but they are not persuasive.

Regarding applicant's argument regarding the reference of Duhamel et al., Duhamel et al. teaches various devices connected to the fixed transceivers (figure 3) and these devices are operated automatically based on the preferences of the person identify by the identification code transmitted by the transceiver (col. 6 lines 24-45).

Regarding applicant's argument regarding the reference of Borgstahl et al., Borgstahl et al. teaches the device (appliance) storing the profile of a person and the device is cause to operate when the person is detected (col. 7 lines 4-7). Applicant's argument regarding the manner in which the user is detected is not in the claim.

Regarding applicant's argument regarding the reference of Williams et al., Williams et al. teaches a base unit (100), comprising a circuit (104) that: stores a predetermined user profile (preferences) of a person (col. 3 lines 10-12); detects a remote electronic apparatus by receiving response via the remote associated with the person (col. 10 lines 26-34); and causes a device (system 100 receives programming input from satellite source 126) to operate according to the user profile (col. 7 lines 15-19).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 34, and 38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Duhamel et al. US Patent 5541585.

Regarding claims 1, 34, and 38, Duhamel et al. teaches an electronic apparatus (18), comprising: a housing that a person can carry and inherently include a circuit (col. 4 lines 38-44). Duhamel et al. teaches that the transceiver is interrogated and its identity is verified when the portable transceiver is within proximity to the fixed transceiver (col. 4 lines 47-60). Duhamel et al. teaches various devices connected to the fixed transceivers (figure 3) and these devices are operated automatically based on the preferences of the person identified by the identification code transmitted by the transceiver (col. 6 lines 24-45) and the profile is stored prior to detecting the circuit because the input received after detecting the circuit is compared with the stored profile (col. 6 lines 36-40) in order to enable the device to operate according to the user preferences.

Regarding claim 4, Duhamel et al. teaches the portable device communicate by wireless means (col. 4 lines 38-44).

Regarding claim 39, Duhamel et al. teaches the base unit senses the person by sensing the transceiver (col. 4 lines 47-60) and the devices coupled to base unit is configured based on the preferences of the person identified by the base unit (col. 6 lines 31-38).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 7-8, 10-11, 20-21, and 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Borgstahl et al. US Patent 6487180.

Regarding claims 7-8, Borgstahl et al teaches a circuit that stores a predetermined user profile (52) of a person (col. 7 lines 4-7), automatically detects a remote electronic apparatus uniquely corresponding to the person when the electronic apparatus is within a predetermined distance from the device (col. 7 lines 4-13).

Regarding claim 10, Borgstahl et al. teaches a portable device comprising a memory a processor (40), a memory (42) coupled to the processor for storing user profile (52).

Regarding claim 11, Borgstahl et al. teaches the remote device communicate with the electronic devices wirelessly using RF communication (col. 4 lines 3-8) and RF communication inherently includes a wireless channel (frequency).

Regarding claims 20-21, and 27, Borgstahl et al. teaches a first electronic apparatus (34) to uniquely correspond to a first person by storing a person personalization data (col. 5 lines 15-16), a device when remote from the electronic apparatus operate to store a user profile of a person (col. 7 lines 6-11). Borgstahl et al. teaches the automatic programming of the appliance

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when the user is in proximity to the appliance (col. 7 lines 8-11) and therefore causing the appliance to operate according to the programming of the appliance by the personalization data.

Regarding claim 26, Borgstahl et al. teaches the electronic apparatus comprises a PDA (col. 7 lines 4-6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 35-36, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duhamel et al. US Patent 5541585 in view of Borgstahl et al. US Patent 6487180.

Regarding claims 2 and 35-36, Duhamel et al. teaches operating devices based on the user profile (col. 6 lines 24-45) but is silent on teaching the circuit of the portable device provides the user profile to the device. Borgstahl et al. in an art related control system teaches a portable device providing the user profile to a device (col. 7 lines 4-13) in order to configure the device according to the user preferences.

It would have been obvious to one of ordinary skill in the art to provide the user profile to the device in Duhamel et al. as evidenced by Borgstahl et al. because Duhamel et al. suggests operating devices based on the user profile and Borgstahl et al. teaches a portable device

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providing the user profile to a device in order to configure the device according to the user preferences.

Regarding claim 6, Duhamel et al. teaches operating devices based on the user profile (col. 6 lines 24-45) but is silent on teaching the circuit of the portable device comprises a processor and a memory coupled to the processor and stores the user profile and a transmitter coupled to the processor. Borgstahl et al. in an art related control system teaches a portable device comprising a memory a processor (40), a memory (42) coupled to the processor for storing user profile (52) and further comprising a transmitter (38) for transmitting information.

It would have been obvious to one of ordinary skill in the art for the portable apparatus to have processor and a memory coupled to the processor and stores the user profile and a transmitter coupled to the processor in Duhamel et al. as evidenced by Borgstahl et al. because Duhamel et al. suggests a portable device for transmitting information and Borgstahl et al. teaches a portable device comprising a memory a processor, a memory coupled to the processor for storing user profile and further comprising a transmitter for transmitting information

Regarding claim 40, Duhamel et al. teaches operating devices based on the user profile (col. 6 lines 24-45) but is silent on teaching the device configure it self. Borgstahl et al. in an art related control system teaches the device configure itself according to the user personalization data (col. 7 lines 4-13) in order to operate according to the user's preferences.

It would have been obvious to one of ordinary skill in the art for the device to configure itself in Duhamel et al. as evidenced by Borgstahl et al. because Duhamel et al. suggests operating the devices based on the user profile and Borgstahl et al. teaches the device configure itself according to the user personalization data in order to operate according to the user's preferences.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhamel et al. US Patent 5541585 in view of Luff et al. U.S Patent 6396224.

Regarding claim 5, Duhamel et al. teaches the portable device communicate by wireless means (col. 4 lines 38-44) but is silent on teaching the circuit communicates with the device by wired (cable) means. Luff et al. in an art related hand-held controller teaches the circuit of a hand held controller communicates with device by a wired (cable) means (figure 1) and one skilled in the art recognizes wired and wireless means are conventional communication means for a hand-held controller.

It would have been obvious to one of ordinary skill in the art for the circuit to communicate with the device by wired (cable) means in Duhamel et al. as evidenced by Luff et al. because Duhamel et al. suggests the circuit communicating with a device by wireless means and Luff et al. teaches the circuit of a hand held controller communicates with device by a wired (cable) means and one skilled in the art recognizes wired and wireless means are conventional communication means for a hand-held controller.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. US Patent 6487187 in view of Luff et al. U.S Patent 6396224.

Regarding claim 12, Borgstahl et al. teaches the portable device communicate by wireless means (col. 4 lines 3-8) but is silent on teaching the circuit communicates with the device by wired (cable) means. Luff et al. in an art related hand-held controller teaches the circuit of a hand held controller communicates with device by a wired (cable) means (figure 1) and one skilled in

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the art recognizes wired and wireless means are conventional communication means for a hand-held controller.

It would have been obvious to one of ordinary skill in the art for the circuit to communicate with the device by wired (cable) means in Borgstahl et al. as evidenced by Luff et al. because Borgstahl et al. suggests the circuit communicating with a device by wireless means and Luff et al. teaches the circuit of a hand held controller communicates with device by a wired (cable) means and one skilled in the art recognizes wired and wireless means are conventional communication means for a hand-held controller.

Claims 13, 16, 17, 30, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. U.S Patent 5977964 in view of Duhamel et al. US Patent 5541585.

Regarding claims 13 and 30, Williams et al. teaches a base unit (100), comprising a circuit (104) that: stores a predetermined user profile (preferences) of a person (col. 3 lines 10-12); detects a remote electronic apparatus by receiving response via the remote associated with the person (col. 10 lines 26-34); and causes a device (system 100 receives programming input from satellite source 126) to operate according to the user profile (col. 7 lines 15-19). Williams et al. is silent on teaching the user profile is recalled by the device. Duhamel et al. in an art related control system teaches a base station (16) automatically detecting a remote apparatus (col. 4 lines 47-60) and devices coupled to the based station recall the user profile and operate according to the user profile (col. 6 lines 24-45) profile in order to customized the operation of appliances according to an individual preferences.

It would have been obvious to one of ordinary skill in the art for the device to recall the user profile and operate according in Williams as evidenced by Duhamel et al. because Williams suggests a base unit identifying an individual and operating a device according to the user profile and Duhamel et al. teaches automatically detecting a remote apparatus and devices coupled to the based station recall the user profile and operate according to the user profile in order to customized the operation of appliances according to an individual preferences.

Regarding claim 16, Williams et al. teaches a control agent (704) with associated user profile database (database inherently include memory) (col. 15 lines 35-40). Williams et al. teaches the system as shown in figure 7 represents a software model, which inherently includes a processor.

Regarding claim 17, Williams et al. teaches the base unit communicates by wireless means with the electronic apparatus (col. 14 lines 24-27).

Regarding claim 33, Williams teaches the base unit comprises a computer (col. 3 lines 27-29).

Claim 14-15 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. U.S Patent 5977964 in view of Duhamel et al. US Patent 5541585 and further in view of Borgstahl et al. US Patent 6487187.

Regarding claims 14-15 and 31-32, Williams et al. teaches a base unit (100), comprising a circuit (104) that: stores a predetermined user profile (preferences) of a person (col. 3 lines 10-12) but is silent on teaching the base unit receives the user profile from the apparatus. Borgstahl et al. in an art related control system teaches a circuit receiving the user profile from the

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electronic apparatus (remote device) (col. 7 lines 4-7) in order to customized the device when the user is in proximity to the electronic device.

It would have been obvious to one of ordinary skill in the art for the base unit receives the user profile from the electronic apparatus in Williams in view of Duhamel et al. as evidenced by Borgstahl et al. because Williams in view of Duhamel et al. suggests base unit storing a user profile and Borgstahl et al. teaches an electronic apparatus providing the user profile to a circuit.

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. U.S. Patent 5977964 in view of Duhamel et al. U.S. Patent 5541585 and further in view of Luff et al. U.S. Patent 6396224.

Regarding claims 18-19, Williams et al. teaches wireless communication means between the base station (104) and the electronic apparatus (132) is by wireless means (figure 1) but is silent on teaching the circuit detects the electronic apparatus via cable. Luff et al. in an art related hand-held controller teaches the circuit of a hand held controller communicates with device by a wired (cable) means (figure 1) and one skilled in the art recognizes wired and wireless means are conventional communication means for a hand-held controller.

It would have been obvious to one of ordinary skill in the art for the circuit to communicate with the device by wired (cable) means in Williams in view of Duhamel et al. as evidenced by Luff et al. because Williams in view of Duhamel et al. in view of Kemink et al. suggests the circuit communicating with a device by wireless means and Luff et al. teaches the circuit of a hand held controller communicates with device by a wired (cable) means and one skilled in the art recognizes wired and wireless means are conventional communication means for a hand-held controller.

Claims 23-24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. US Patent 6487180 in view of Orthmann et al. U.S Patent 5602538.

Regarding claims 23-24, Borgstahl et al. teaches a first electronic apparatus (34) to uniquely correspond to a first person by storing a person personalization data (col. 5 lines 15-16), a device when remote from the electronic apparatus operate to store a user profile of a person (col. 7 lines 6-11). Borgstahl et al. teaches the automatic programming of the appliance when the user is in proximity to the appliance (col. 7 lines 8-11) and therefore causing the appliance to operate according to the programming of the appliance by the personalization data. Borgstahl et al. teaches the control system (figure 1) communicates with a vast number of remote devices 34 (electronic apparatus) (col. 4 lines 57-59) and therefore include a second electronic apparatus. Borgstahl et al. is however silent on teaching a second electronic apparatus operable to be carried by a second person determine respective priorities of the first and second persons and operating according to the user profile of the person having the higher priority. Orthmann et al. in an art related invention of identifying multiple apparatus (transponder) teaches selecting an apparatus from a multiple of apparatus based on a priority scheme that selects the apparatus that is closest to the device (col. 2 lines 50-54).

It would have been obvious to one of ordinary skill in the art to detect the first and second apparatus based which apparatus is closest to the device in Borgstahl et al. as evidenced by Orthmann et al. because Borgstahl et al. suggests storing multiple users profile and Orthmann et al. teaches selecting an apparatus from a multiple of apparatus based the apparatus that is closest to the device as a means of selecting an apparatus when multiple responses are received.

Claims 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. US Patent 6487180 in view of Doviak et al. U.S Patent 6418324.

Regarding claim 25, Borgstahl et al teaches an electronic apparatus having a circuit that stores a predetermined user profile (52) of a person (col. 7 lines 4-7) but is silent on teaching the electronic apparatus is a laptop computer. Doviak et al. in an art related communication system invention teaches detecting of electronic apparatus including laptop and PDA (col. 9 lines 16-17) in order to monitor and control a computer base system.

It would have been obvious to one of ordinary skill in the art to detect a laptop computer in Borgstahl et al. evidenced by Doviak et al. because Borgstahl et al. suggests detecting an electronic apparatus having a circuit that stores a predetermined user profile and Doviak et al. teaches detecting electronic apparatus including a laptop in order to monitor and control a computer base system.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. US Patent 6487180 in view of Othmer et al. U.S Patent 6167358.

Regarding claim 28, Borgstahl et al teaches an electronic apparatus having a circuit that stores a predetermined user profile (52) of a person (col. 7 lines 4-7) but is silent on teaching the device is a vending machine. Othmer et al. in an art related system and method for monitoring a plurality computer-based system invention teaches the storing of user profile (col. 13 lines 61-63) and also teaches the computer-based system is a vending machine (col. 13 lines 7-8).

It would have been obvious to one of ordinary skill in the art for the device to be a vending machine in Borgstahl et al. as evidenced by Othmer et al. because Borgstahl et al

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suggests a device storing a user profile and Othmer et al. teaches the storing of user profile on a computer based system such as a vending machine.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. US Patent 6487180 in view of Gehrke U.S Patent 6584381.

Regarding claim 29, Borgstahl et al teaches an electronic apparatus having a circuit that stores a predetermined user profile (52) of a person (col. 7 lines 4-7) but is silent on teaching the device is a seat. Gehrke in an art related device for exchanging data with a vehicle teaches storing user profile for configuring a seat (col. 3 lines 33-43) in order to automatically adjust a seat to comfortably seat a user.

It would have been obvious to one of ordinary skill in the art to store a user profile for configuring a seat in Borgstahl et al. as evidenced by Gehrke because Borgstahl et al. suggests a device storing a user profile and Gehrke teaches storing user profile for configuring a seat to suit a user's preferences.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown
November 29, 2005



BRIAN ZIMMERMAN
PRIMARY EXAMINER